

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

TIMOTHY L. WILSON,

Plaintiff,

vs.

Civil No. 12-2956-STA/tmp

MEMPHIS LIGHT, GAS & WATER,
SEAN A. HUNT, and
JAYE MOSBY-MEACHEM,

Defendants.

REPORT AND RECOMMENDATION

On November 1, 2012, plaintiff Timothy L. Wilson, a resident of Memphis, Tennessee, filed a *pro se* complaint against Memphis Light, Gas & Water ("MLGW"), and attorneys Sean Hunt and Jaye Mosby-Meachem, accompanied by a motion seeking leave to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) In an order issued on November 5, 2012, the court granted leave to proceed *in forma pauperis*. (ECF No. 3.) On November 6, 2012, this case was referred to the *pro se* staff attorneys for screening pursuant to 28 U.S.C. § 1915(e)(2)(B), in order to determine whether the complaint, or any portion of it, should be dismissed because it is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. The case had not yet been screened when, on March 28, 2013, the District Judge entered an order pursuant to the Federal

Magistrates Act, 28 U.S.C. §§ 631-39 (2006), referring this case to the Magistrate Judge for case management and for all pretrial matters for determination and/or report and recommendation as appropriate. (Order of Reference, ECF No. 15.)

It appears that shortly after the court entered its November 5 order granting plaintiff leave to proceed *in forma pauperis*, plaintiff attempted to serve the defendants with a copy of the complaint. On November 8 and 12, 2012, counsel for the defendants filed their notices of appearance. (ECF Nos. 4, 5, 6.) On November 16, MLGW filed a motion to dismiss. (ECF No. 7.) On November 20, Hunt filed a motion to dismiss. (ECF No. 8.) On November 21, Meachem filed a motion to dismiss. (ECF No. 9.) On December 11, defendants filed a Joint Motion and Memorandum in Support of Sanctions and an Amended Joint Motion for Sanctions. (ECF Nos. 10 & 11.)

This case is still in the process of being screened, and because the court has not entered an order to issue and effect service of process, plaintiff could not have obtained a summons from the Clerk. See Fed. R. Civ. P. 4(b). Because the case is still being screened, the defendants' motions are premature. It is recommended that the defendants' motions be denied without prejudice at this time. The motions may be refiled, if necessary, after the court completes screening the complaint.

Respectfully submitted,

s/ Tu M. Pham
TU M. PHAM
United States Magistrate Judge

July 24, 2013
Date

NOTICE

WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THIS REPORT AND RECOMMENDED DISPOSITION, A PARTY MAY SERVE AND FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS. A PARTY MAY RESPOND TO ANOTHER PARTY'S OBJECTIONS WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY. FED. R. CIV. P. 72(b)(2). FAILURE TO FILE OBJECTIONS WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND FURTHER APPEAL.